

Department of Permits and Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204
Baltimore County, Maryland

In the Matter of

Civil Citation No. 58433

Donald Aquilano
3525 E Joppa Road
Perry Hall, MD 21128

4407 E Joppa Road

Respondent

FINDINGS OF FACT AND CONCLUSIONS OF LAW
FINAL ORDER OF THE CODE ENFORCEMENT HEARING OFFICER

This matter came before the Code Enforcement Hearing Officer for the Department of Permits and Development Management on August 11, 2009 for a Hearing on a citation for violations under the Baltimore County Zoning Regulations (BCZR) section 101, 102.1, 1B091.1, 408 B, failure to cease the operation of an illegal boarding house on residential property zoned DR 5.5 known as 4407 E. Joppa Road, 21128.

On June 25, 2009, pursuant to Baltimore County Code §3-6-205, Inspector Adam Whitlock issued a Code Enforcement & Inspections Citation. The citation was sent to the Respondent by 1st class mail to the last known address listed in the Maryland State Tax Assessment files.

The citation proposed a civil penalty of \$5,000.00 (five thousand dollars).

The following persons appeared for the Hearing and testified: Donald Aquilano, Respondent, John Lapp and Steve Schweiger, Complainants and, Adam Whitlock, Baltimore County Code Enforcement Officer.

After proper consideration of all the evidence and testimony presented, the Hearing Officer finds:

A. A Correction Notice was issued on May 7, 2009 for zoning violation of illegal rooming/boarding house. This Citation was issued on June 25, 2009.

B. Inspector Adam Whitlock testified that following receipt of a complaint in March 2009, he visited the property and spoke with residents. Neighbors returned the department's boardinghouse questionnaire and he investigated license plate numbers for parked cars. The questionnaire response described five or six adults who were observed and apparently living in the house, including the owner; noted that one resident said he was the owner's cousin; and at least one resident was the adult son of another resident. Five or six frequently parked cars were listed with their tag numbers. Inspector Whitlock testified that the owner told him he was living in the house with his children and with his fiancée and her children.

C. Neighbor John Lapp testified that there are up to six people living in the house and not all are related to the owner. He further testified that there are three kitchens in the house.

D. Respondent Aquilano testified that one of the residents was his fiancée and that he allowed her and her daughter to stay temporarily after they broke off their engagement. He further testified that his cousin is temporarily living in the basement while recovering from surgery. He testified that there is only one kitchen in the house. He further testified that he has sold the house and will be settling on the transaction at the end of August, and that everyone has moved out of the house.

E. Baltimore County's zoning regulations restrict the number of unrelated adults who can occupy a house for compensation. Because this is the owner's domicile, the house can be occupied by the owner and up to two unrelated adults absent a permit for a boarding or rooming house. BCZR Section 101.1; Section 408B. Even if his fiancée's daughter is over the age of 18, she would be the second adult unrelated to the owner and would be within the number permitted by zoning regulations. Based on the evidence presented, there has been no violation of County zoning restrictions relating to rooming and boarding houses.

IT IS ORDERED by the Code Enforcement Hearing Officer that the Citation is DISMISSED.

ORDERED this 12th day of August 2009.

Signed: ORIGINAL SIGNED
Margaret Z. Ferguson
Baltimore County Hearing Officer

NOTICE TO RESPONDENT: The Respondent is advised that (1) pursuant to §3-6-206(g)(2) of the Baltimore County Code, the Respondent may make written application to the Director of the Department of Permits & Development Management within 10 days to modify or amend this order and (2) pursuant to §3-6-301(a), Baltimore County Code, the Respondent may appeal this order to the Baltimore County Board of Appeals within fifteen (15) days from the date of this order; any such appeal requires the filing of a petition setting forth the grounds for appeal, payment of a filing fee of \$150 and the posting of security to satisfy the penalty assessed.

MZF/jaf